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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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11 BMG MUSIC; UMG RECORDINGS, INC.; SONY  
12 BMG MUSIC ENTERTAINMENT; INTERSCOPE  
13 RECORDS; WARNER BROS. RECORDS INC.;  
14 and CAPITOL RECORDS, INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

PVT

17 BMG MUSIC, a New York general partnership;  
18 UMG RECORDINGS, INC., a Delaware  
19 corporation; SONY BMG MUSIC  
20 ENTERTAINMENT, a Delaware general  
21 partnership; INTERSCOPE RECORDS, a  
22 California general partnership; WARNER  
23 BROS. RECORDS INC., a Delaware  
24 corporation; and CAPITOL RECORDS, INC., a  
25 Delaware corporation,

26 Plaintiffs,

27 v.

28 JOHN DOE #6,

Defendant.

CASE NO.

07 4840

COMPLAINT FOR COPYRIGHT  
INFRINGEMENT

## **JURISDICTION AND VENUE**

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).

6       3.     Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the  
7     true identity of Defendant John Doe #6 (“Defendant”) is unknown to Plaintiffs at this time, on  
8     information and belief, Defendant may be found in this District and/or a substantial part of the acts  
9     of infringement complained of herein occurred in this District. On information and belief, personal  
10    jurisdiction in this District is proper because Defendant, without consent or permission of the  
11    copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by  
12    Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the  
13    United States, including this one. In addition, Defendant contracted with an Internet Service  
14    Provider (“ISP”) found in this District to provide Defendant with the access to the Internet which  
15    facilitated Defendant’s infringing activities.

## PARTIES

4. Plaintiff BMG Music is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business in the State of New York.

5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

6. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general partnership, with its principal place of business in the State of New York.

7. Plaintiff Interscope Records is a California general partnership, with its principal place of business in the State of California.

8. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

10. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to Defendant by his or her ISP on the date and time of Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant’s true name.

**COUNT I**  
**INFRINGEMENT OF COPYRIGHTS**

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the “Copyrighted Recordings”). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are

1 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously  
2 downloaded and/or distributed to the public additional sound recordings owned by or exclusively  
3 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of  
4 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being  
5 distributed by Defendant.)

6 15. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
7 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
8 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
9 These published copies were widely available, and each of the published copies of the sound  
10 recordings identified in Exhibit A was accessible by Defendant.

11 16. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
12 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

13 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
14 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against  
15 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to  
16 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

17 18. The conduct of Defendant is causing and, unless enjoined and restrained by this  
18 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
19 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
20 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
21 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound  
22 recordings made in violation of Plaintiffs' exclusive rights.

23 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

24 1. For an injunction providing:

25 "Defendant shall be and hereby is enjoined from directly or indirectly  
26 infringing Plaintiffs' rights under federal or state law in the  
27 Copyrighted Recordings and any sound recording, whether now in  
28 existence or later created, that is owned or controlled by Plaintiffs (or  
any parent, subsidiary, or affiliate record label of Plaintiffs)  
("Plaintiffs' Recordings"), including without limitation by using the  
Internet or any online media distribution system to reproduce (i.e.,  
download) any of Plaintiffs' Recordings or to distribute (i.e., upload)

1 any of Plaintiffs' Recordings, except pursuant to a lawful license or  
2 with the express authority of Plaintiffs. Defendant also shall destroy  
3 all copies of Plaintiffs' Recordings that Defendant has downloaded  
4 onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

5 2. For statutory damages for each infringement of each Copyrighted Recording  
6 pursuant to 17 U.S.C. § 504.

7 3. For Plaintiffs' costs in this action.

8 4. For Plaintiffs' reasonable attorneys' fees incurred herein.

9 5. For such other and further relief as the Court may deem just and proper.

10 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

11 12 By: 

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MATTHEW FRANKLIN JAKSA  
Attorney for Plaintiffs  
BMG MUSIC; UMG RECORDINGS,  
INC.; SONY BMG MUSIC  
ENTERTAINMENT; INTERSCOPE  
RECORDS; WARNER BROS.  
RECORDS INC.; and CAPITOL  
RECORDS, INC.

**EXHIBIT A****JOHN DOE # 6****IP Address:** 129.210.191.16 2007-03-10 18:15:21 EST**CASE ID#** 121327751**P2P Network:** Gnutella**Total Audio Files:** 579

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	U2	Sunday Bloody Sunday	War	42-944
UMG Recordings, Inc.	Boston	Amanda	Third Stage	84-863
BMG Music	Vertical Horizon	Everything You Want	Everything You Want	277-868
SONY BMG MUSIC ENTERTAINMENT	Marvin Gaye	Sexual Healing	Midnight Love	41-568
Interscope Records	Dr. Dre	The Next Episode	2001	277-983
Warner Bros. Records Inc.	Red Hot Chili Peppers	Can't Stop	By The Way	316-878
BMG Music	Foo Fighters	Learn To Fly	There Is Nothing Left To Lose	285-034
UMG Recordings, Inc.	The Cranberries	Zombie	No Need To Argue	218-047
Capitol Records, Inc.	Coldplay	Clocks	A Rush of Blood to the Head	322-958
UMG Recordings, Inc.	U2	With or Without You	The Joshua Tree	78-949